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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,852	10/21/2003	Christopher Stevens	75144-011500	6937

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GREENBERG TRAURIG LLP  
2450 COLORADO AVENUE, SUITE 400E  
SANTA MONICA, CA 90404

EXAMINER

LEIVA, FRANK M

ART UNIT PAPER NUMBER

3714

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/690,852	Applicant(s) STEVENS ET AL.	
	Examiner Frank M. Leiva	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10/21/2003, 3/01/2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Priority***

1. Applicant's claim for the benefit of priority on a Prior Foreign Application under 35 U.S.C. 119, is acknowledged.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicants claim points to every hand will be a wining hand, for the remainder of this examination the examiner has interpret this to mean that for the bonus game feature to appear, the player must have been awarded winnings on that particular base game, so as for the player to have something to risk if going forward.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jasper et al. (US 6,702,670 B2).

Jasper et al. (US 6,702,670 B2) teaches:

6. Regarding claims 1, 4, 6, 12, and 15, Jasper et al. teaches:

- a. A gaming machine and all its parts that comprise a standard gaming machine (display, credit window, win meter, coin and bill acceptor, and a button panel). (Fig 2, Col 3:62-67).
- b. A random event is cause to be displayed. (Col 6:33-41,64-67).
- c. If a predefined winning occurs, the machine awards the prize. (Col 1:11-24).
- d. A game feature or bonus round in which the player is given an option to continue and play the bonus or stop and start another game. (Col 1:56-67, Col 2:1-5).

7. Regarding claim 2 and 13, Jasper et al. teaches the game feature second display if triggered. (Fig. 1 and Col 6:1-8).

8. Regarding claims 5 and 16, Jasper et al. teaches the outcome of the first game must be successful in order to initiate the bonus round. (Fig 1).

9. Regarding claims 6-8, and 17-19, Jasper et al. teaches that the probability of the game feature (bonus rounds) are different from the standard game and can vary in many ways. (Col 7:8-11,Col 8:1-20).

10. Regarding claim 10, Jasper et al. teaches the button panel. (Fig 2).

Jasper et al. (US 6,702,670 B2) fails to teach:

11. Regarding claims 11 and 21, Jasper et al. teaches the loss of winnings if the outcome is unsuccessful, but it fails to teach the loss of only half the winnings of the bonus round.

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The examiner claims that it would be an obvious design choice to let the player keep some of the winnings as a consolation prize, so that the player would risk going for the bonus more often and lowering the game payback ratio in favor of the house.

12. Regarding claim 3 and 14, Jasper et al. does not show an icon in Fig. 2 pointing to the Pay Table glass that would show on the belly or the top glass on the machine, the examiner takes official notice that displaying the games pay table is require by gaming regulations in all USA gaming jurisdiction.

13. Regarding claims 1, 4, 6, 12, and 15, Jasper et al. teaches, forfeiture of winnings upon an unsuccessful outcome, said portion to be all the winnings, "but not all" is known to be a consolation prize, notoriously well known feature, motivated to improve costumer satisfaction. (Col 3:20-25).

14. Regarding claims 9 and 20, examiner takes official notice that all games must have a calculated percentage sheet whereas the pay table and game expected win is calculated. These odd calculations are not novel but required for the implementation of any gaming device, and vary according to the game playing features.

#### ***Citation of prior art***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lemay et al. US 2002/0010018 teaches the forfeiture of winnings on a bonus game, Jaffe US 6254481 reel em in game teaches the release of a small fish to go for a bigger one, Gura US 6159097 teaches about variable bonus probabilities.

**Conclusion**

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Leiva whose telephone number is (571) 272-2460. The examiner can normally be reached on M-Th 8:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John M. Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML

 12/5/06

ROBERT P. OLSZEWSKI  
EXAMINER  
ELECTRONIC BUSINESS CENTER 3700